

THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

AND

THE HON'BLE SRI JUSTICE K.C.BHANU

WRIT APPEAL No. 1491 of 2005

18-08-2005

Between:

D.Sireesha.

.....APPELLANT

AND

B.Bhadraiah & Another.

.....RESPONDENTS

**THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE**

**And**

**THE HON'BLE SRI JUSTICE K.C.BHANU**

**WRIT APPEAL No. 1491 OF 2005**

**JUDGMENT** : (Per Hon'ble Sri Bilal Nazki, ACJ)

Admit.

Heard learned counsel for the parties. Since the Counsel for the parties have been heard, the appeal is decided at this stage.

It appears that the appellant filed a private complaint, which was referred to Police and Police filed a report in which it was stated that the 1<sup>st</sup> respondent *prima facie* has committed an offence under Sections 420 and 406 of I.P.C. The 1<sup>st</sup> respondent filed a writ petition, seeking quashing of F.I.R. and the writ petition has been allowed by the learned single Judge on the ground that the matter was essentially a civil matter and the appellant herein had failed to file a civil suit for recovery of money, therefore the complaint would not lie.

We do not agree with this finding of the learned single Judge. We have gone through the F.I.R. and Police report. Both disclose *prima facie* an offence. Therefore, under Section 482 of Cr.P.C. or under Article 226 of the Constitution, this Court cannot quash such proceedings. Since *prima facie* an offence is disclosed, therefore, we set aside the order of the learned single Judge, allow the writ appeal. The writ petitioner is at liberty to take all pleas, which may be available to him in law before the Magistrate concerned. No order as to costs.

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(BILAL NAZKI, ACJ)

18<sup>th</sup> August 2005.

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ajr. (K.C.BHANU, J)